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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/558,925	04/26/2000	John Albert Kembel	10351-0007	1658

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EXAMINER	
AVELLINO, JOSEPH E	

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/558,925	KEMBEL ET AL.	
	Examiner	Art Unit	
	Joseph E. Avellino	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *31-77* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *31-77* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1/3/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 31-68 are pending in this application; claims 31, 42, 50, and 62 independent.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 3, 2006 has been entered.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 70-75 are rejected under 35 U.S.C. 101 because they are not tangibly embodied. A software object is merely software code. See MPEP 2106. Furthermore it is apparent that claims 70-75 do not produce a "useful, concrete, and tangible result" rather the object merely provides data, which is not a tangible result. See State Street, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 31-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furst (USPN 6,297,819).

6. Referring to claim 31, Furst discloses a method for presenting Internet content to a user of a computing device, comprising:

retrieving a first internet content that is programmed in a format readable by a web browser program (Figure 3; col. 7, line 35 to col. 8, line 46); and

rendering the first internet content to provide a visual manifestation of the first internet content on an output means of the computing device, wherein the visual manifestation of the first internet content is not confined by a window of a Web browser program, wherein the first Internet content comprises a definition of a frame for the visual manifestation (the Office takes the term "frame" to mean "outline or shape", and it must be inherent that the system of Furst to define a frame of the tool since third parties define the icon and download content from the internet which describe specifically how to render the icon in the bar or the free form graphic in which to display the tool, see col. 7, lines 44-50) (Figure 5; col. 8, lines 39-46).

Furst does not explicitly state that the frame and internet content are rendered independently from a web browser program, however Furst does disclose that the elements can take other forms, such as free-form graphics without enclosing boxes or window decorations and that the tool windows are updated by the tools with the information generated by the application programs (col. 8, lines 15-25, 40-45). This would indicate to one of ordinary skill in the art that the tool is independent of the browser window. By this rationale, It would have been obvious to one of ordinary skill in the art that the frame and internet content are rendered independently from the web browser program.

7. Referring to claim 32, it is inherent that the definition of the frame is programmed in a format readable by a web browser program since if it is displayed by the web browser program it inherently must be programmed in a way such that the program is able to read the definition of the frame.

8. Referring to claims 33 and 34, Furst discloses the invention substantively as described in claims 31 and 32. Since claims 33 and 34 defines a second visual manifestation exactly the same as claims 31 and 32, and Furst discloses that multiple bar icons can be shown at the same (Figure 5, 502, 504, 506). Furst discloses anther second internet content which produces a second visual manifestation not confined by a window of a browser.

9. Referring to claim 37, Furst discloses the Internet content comprises JavaScript (Jscript) (col. 5, line 2).

10. Referring to claim 42, Furst discloses the invention substantively as described in the claims listed above. Furst furthermore discloses a second visual manifestation of a frame through which the first visual manifestation is presented (the tool icon and the definition of the frame as seen in Figure 5, 502, 504, 506).

11. Referring to claim 43, Furst discloses the receiving step comprises receiving the internet content from the web (Figure 3 and related portions of the disclosure).

12. Referring to claim 44, Furst discloses the receiving step comprises retrieving the internet content from a memory of the computing device (it is understood that the web page must be stored in memory before it can be rendered) (Figure 3).

13. Claim 46 is rejected for similar reasons as stated above.

14. Claims 50-77 are rejected for similar reasons as stated above since all limitations taught by the newly added claims are either expressly taught or implied by Furst. Furthermore it has been held obvious to make combined components separable. See Nerwin v. Erlichman 168 USPQ 177 (1969).

15. Referring to claims 35 36, and 45, Furst discloses the invention substantively as described in claim 31. Furst does not specify that the internet content comprises XML codes and XML tags for the frame definition. However it is well known that XML code is commonly downloaded over the Internet (i.e. web pages) and that in defining the frames of these web pages, XML tags are used in order to correctly define the frame. By this rationale it would have been obvious to one of ordinary skill in the art to include XML tags to the system of Furst to provide a more robust method of coding the icons and window bars associated with the invention, thereby allowing another method to provide third parties to code applications easily.

16. Referring to claims 38, Furst discloses the invention substantively as described above. Furst does not specifically disclose that JavaScript tags are used to define the frame of the window and bar. However it is well known that JavaScript has the capability of defining a frame for the tool and one of ordinary skill in the art would find it obvious to do so. By this rationale it would have been obvious to one of ordinary skill in the art to include JavaScript tags in the code in order to provide a more robust method of coding the icons and windows and a bar in order to provide a language in which many browsers understand, thereby increasing the accessibility of the invention.

17. Referring to claims 39-41 and 47-49, Furst discloses the invention substantively as described in claim 31. Furst does not disclose that the Internet content includes creating a media player, a calculator or accessing streaming media. However these

functions are well known to exist and one of ordinary skill in the art (i.e. calculation applets are prevalent on the web, media players can be inserted into web browsers, which would stream media from servers) would find it obvious to be able to encode a visual manifestation of these applications in order to provide the viewing public a copy of the application, thereby increasing the knowledge of the general public.

Response to Arguments

18. Applicant hereby traverses the Office's assertions that various features of Applicant's invention is common knowledge to one of ordinary skill in the art.

19. With regards to claims 35 and 45, Applicant is invited to look at Maslov (USPN 6,538,673) for the recitation that the first internet content comprises XML codes and tags (e.g. abstract).

20. With regard to claim 36, Applicant is invited to look at Morrison, Michael (XML Unleashed published December 21, 1999) Chapter 20 describes that JavaScript supports scripting XML and this would lead one of ordinary skill in the art for using XML codes and tags to define a frame which can be seen in ¶ 20.

21. With regards to claims 37, 38, and 46 Applicant is invited to look at Flanagan, David (JavaScript: The definitive Guide, 3rd edition published June, 1998) wherein

JavaScript can be used to define the size and location of the frame of the page (section 13.7.1).

22. With regards to claims 39 and 47 Applicant is invited to look at Strandberg et al. (USPN 6,816,880) such that a calculator can be visualized outside of a window of a web browser program (i.e. popup calculator) (col. 17, lines 50-52). Furst discloses the recitation that the internet content of a frame for the visual manifestation is done by the Internet content (col. 12, lines 15-20) and it would be obvious to one of ordinary skill in the art to combine Strandberg with Furst since Furst discloses that other kinds of component applications can be developed and distributed easily (col. 11, lines 15-20). This would lead one of ordinary skill in the art for other client tools to incorporate to the system of Furst, eventually finding Strandberg and its ability to utilize a radio button bar to initialize applets of various applications.

23. With regards to claims 40, 41, 48, and 49, Applicant is invited to look at Nishizawa (USPN 6,842,779) such that a streaming media player can be visualized outside of a window of a web browser program. Applicant will find in col. 4, lines 26-35 the recitation that the agent program can emit music or video without running browser software. Furst discloses the recitation that the internet content of a frame for the visual manifestation is done by the Internet content (col. 12, lines 15-20) and it would be obvious to one of ordinary skill in the art to combine Nishizawa with Furst since Furst discloses that other kinds of component applications can be developed and distributed

easily (col. 11, lines 15-20). This would lead one of ordinary skill in the art for other client tools to incorporate to the system of Furst, eventually finding Nishizawa and its novel method of agent programs which run autonomously without running browser software.

24. Applicant's arguments filed January 3, 2006 have been fully considered but they are not persuasive.

25. In the remarks, Applicant argues, in substance, that (1) Furst does not disclose that a web browser program does not need to be running or even accessed in order to render the frame and content according to the present invention, since it is stated that each tool is displayed as a web browser window.

26. As to point (1) Applicant's recitation of cited passages is correct, however Applicant is mistaken that Furst does not disclose the newly added limitation. Applicant's attention is directed to col. 8, lines 40-48 where it is stated that "while the user interface elements of the client have been referred to as windows and a bar, *these elements can take other forms,* ***including free-form graphics displayed without enclosing boxes or window decorations***" (emphasis added). Applicant is further directed to col. 8, lines 15-20 where it is stated that the windows of the active tools are updated by the tools with information generated *by...the application programs running on the tool servers"* (emphasis added). These passages would clearly indicate to one of

ordinary skill in the art that the Web browser program would have absolutely nothing to do with the rendering of the frame (since a free form graphic is well known in the art not to have a window, rather the frame can be construed as the edge of the graphic), as well as the content (which is rendered by the tools which render the content for the application programs. By this rationale, the rejection is maintained.

Furthermore applicant is not claiming that "no web browser program need be running or even accessed in order to render the frame and content", rather Applicant is claiming "the frame and first Internet content rendered independently from a Web browser program" (claim 31). Applicant is reminded that "although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims". See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEA
March 14, 2006

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